

222-08/MHLJ

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MINMETALS SHIPPING & FORWARDING CO.
LTD.,

08 CIV 3533 (RWS)

Plaintiff,

- against -

HBC HAMBURG BULK CARRIERS, GMBH & CO.
KG,

STIPULATION AND
ORDER DIRECTING
RELEASE OF FUNDS
AND DISCONTINUANCE
OF ACTION

Defendant.
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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
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WHEREAS Plaintiff Minmetals Shipping & Forwarding Co. Ltd. ("Minmetals") commenced this action on April 11, 2008 pursuant to Rule B of the Supplemental Rules of the Federal Rules of Civil Procedure seeking security for claims to be asserted in an arbitration in London against Defendant HBC Hamburg Bulk Carriers GmbH & Co. KG ("HBC"); and

WHEREAS Plaintiff Minmetals filed an Amended Verified Complaint on or about April 18, 2008 and sought an Amended Process of Maritime Attachment and Garnishment ("PMAG") in the sum of \$2,710,928.00; and

WHEREAS the Amended PMAG was served upon various garnishee banks which subsequently restrained funds being wire transferred to or from HBC in the sum of \$2,710,928.00; and

WHEREAS HBC subsequently moved to vacate the attachment on the grounds that it was "found" within the District by reason of its prior registration with the New York Secretary of State and designation of an agent to receive service of process within the District; and

WHEREAS on June 24, 2008, the Hon. Robert W. Sweet issued an Opinion and Order vacating the attachment; and

WHEREAS the parties have now agreed to settle their underlying dispute with the settlement funds to be paid from the funds restrained in this action;

IT IS HEREBY STIPULATED AND AGREED that that the sum of \$1,228,000.00 shall be paid to Plaintiff Minmetals from the \$2,102,625.00 restrained in this action at Bank of America pursuant to the Amended PMAG authorized to be issued by this Court with the balance (\$874,625.00 plus any interest earned thereon) to be returned to Defendant HBC, with both transfers to be per wire transfer instructions to be provided to the bank by counsel for the respective parties; and

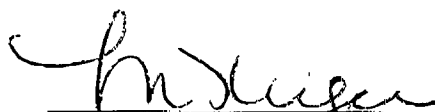
IT IS FURTHER STIPULATED AND AGREED that all other funds restrained by all other garnishees, including but not limited to the \$322,500.00 restrained at American Express Bank and the \$285,803.00 restrained at HSBC Bank, be returned to Defendant HBC pursuant to wire transfer instructions to be provided to the banks by counsel for Defendant HBC; and

IT IS FURTHER STIPULATED AND AGREED that counsel for Plaintiff Minmetals will serve a copy of this Stipulation and Order upon all garnishee banks that have been served with the amended PMAG and which are directed to advise counsel for Defendant HBC if they are holding any additional funds not listed above; and

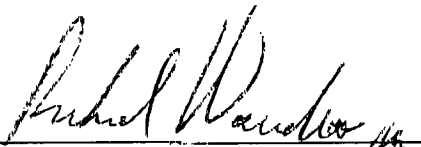
IT IS FURTHER STIPULATED AND AGREED that this action be discontinued with prejudice and without costs as to any party; and

IT IS FURTHER STIPULATED AND AGREED that this action may be re-opened upon application to the Court made within thirty (30) days of the date of this Stipulation having been "So Ordered" if the funds are not received by either party.

Dated: New York, New York
June 30, 2008



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"SO ORDERED"



Hon. Robert W. Sweet, U.S.D.J.

7-1-08